

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SELIM ZHERKA, and THE GUARDIAN NEWS, INC.,

Plaintiffs,

07 Civ. 8047 (CLB)

-against-

RUSSELL MARTINEZ, individually, STEPHEN
FORCE, individually, and EDWARD FALCONE,
individually,

Defendants.

**DECLARATION IN SUPPORT
OF MOTION**

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EDWARD J. PHILLIPS, an attorney duly admitted to practice law in this Court and in the courts of the State of New York, hereby declares under penalty of perjury that the following is true and correct.

1. I am a member of the law firm of Keane & Beane, P.C., attorneys for Defendants Russell Martinez, Stephen Force and Edward Falcone ("Defendants") in the above-captioned action. I submit this Declaration in support of the instant motion by proposed Intervenor-Defendant, the Yonkers Public Library (the "Library"), for an Order: (i) granting the Library leave to intervene in this action as a defendant, pursuant to Fed. R. Civ. P. 24; and (ii) issuing a preliminary injunction that directs Plaintiffs Selim Zherka and The Guardian News, Inc. ("Plaintiffs") to forthwith remove the metallic newspaper receptacles for The Westchester Guardian (the "Guardian Boxes") that were placed inside the Yonkers Riverfront and Will Libraries, and enjoining them from placing new receptacles inside those facilities.

2. Annexed hereto as Exhibit "A" is a true copy of the Complaint.

3. Annexed hereto as Exhibit "B" is a proposed Answer submitted on behalf of the Library pursuant to Fed. R. Civ. P. 24.

WHEREFORE, for the reasons set forth in the accompanying Memorandum of Law and supporting Declarations submitted herewith, the Library respectfully submits that its motion should be granted in all respects.

Dated: White Plains, New York
November 2, 2007



Edward J. Phillips (EP 4825)